

Serial No. 10/668,758

- 4 -

50812aka

IN THE DRAWINGS

Please add Figure 6 as further described in the Remarks section.

REMARKS

With respect to the drawings, Applicant wishes to add a new Figure 6, which shows a typical "quick-release mechanism including spring-biased push button." Applicant feels that this does not include the addition of new matter, because, in contrast to the Examiner's position, Applicant did not invent a quick-release mechanism including a spring-biased button," and, indeed, modified an existing seatbelt latch for Applicant's purposes. Accordingly, any spring-biased push button capable of temporarily retaining a U-shaped latch would suffice, and the same would be apparent to one of skill in the art. Indeed, Applicant discloses that "slipping the hasp 108 into the opening 106 causes the capture hasp 108, whereas pressing down on the button 110 releases it, again, much like that used for existing seatbelts."

With respect to the rejection under 35 U.S.C. §112, the Examiner contends that it is not clear how to interpret the scope of the invention, particularly the preamble. Applicant feels the claims, and the scope of the claims, are clearly set-forth. It is extremely common in a preamble to introduce elements which are not actually claimed, but with which the invention interacts, these elements being designated primarily for antecedent basis reasons. In instant claim 1, the scope is simply a device configured to mount between the hasp and the locking mechanism [of a vehicle] to keep the window in a partially open condition. All of the elements of the claim have to do with the device, and not the vehicle *per se*. In this case, "in" means "with respect to," and not physically in the vehicle, though the device is mounted "on" the vehicle. In any case, Applicant has amended claim 1 to read "for use in conjunction with a vehicle." This should hopefully clear up the problem.

Claims 1, 3 and 4 stand rejected under 35 U.S.C. §102(b) over Rashbaum ('280). Applicant respectfully disagrees that Rashbaum '280 teaches "structure that reads on all claim limitations." Claim 1 includes the limitation of a body having a first end with a "substitute hasp . . ." which Rashbaum does not have. Claim 1 includes the limitation of the second end of the body, "including an opening for receiving the U-shaped hasp of the window," a limitation which Rashbaum does not have. Claim 1 further includes the limitation of a quick-release mechanism for engaging the U-shaped hasp of the window . . .," a limitation which Rashbaum does not have. Since anticipation requires that each and every element be set-forth in a single prior-art reference, §102 does not apply to these claims.

Claims 1, 3 and 4 stand rejected 35 U.S.C. §103(a) over Rashbaum in view of Frayne ('742). The Examiner contends that it would have been obvious to use the device of Rashbaum to hold a window partially open, "since the proposed combination would have required little if any modification (possibly a change in size) and would perform analagous function to which it was originally disclosed." Again, Applicant respectfully disagrees. The device of Rashbaum is a trunk extension, and not a window opener. It does not have fittings as claimed by Applicant for use in the intended purpose of Frayne and is clearly too long to have any reasonable degree of success if somehow modified for a different intended purpose. Given that *prima facie* obviousness requires that there be a teaching or suggestion from the prior art to combine or modify references, in conjunction with a reasonable degree of success, the *prima facie* obviousness has not been established in this case.

Based upon the foregoing amendments and comments, Applicant believes that this case is in condition for allowance. Questions regarding this application may be directed to the undersigned attorney by telephone, facsimile or electronic mail.

Respectfully submitted,

By: 

John G. Posa

Reg. No. 37,424

Gifford, Krass, Groh, Sprinkle et al.

PO Box 7021

Troy, MI 48007-7021

(734) 913-9300 FAX (734) 913-6007

Dated: December 8, 2005

Email: jposa@patlaw.com